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TITLE VI—GENERAL PROVISIONS

SEC. 601. GENERAL PROVISIONS.

Title XIV of the Elementary and Secondary Education Act is amended to read as follows:

“PART A—DEFINITIONS

“SEC. 14101. DEFINITIONS.

“Except as otherwise provided, for the purposes of this Act, the following terms have the following meanings:

“(1) Average daily attendance—

“(A) Except as provided otherwise by State law or this paragraph, the term ‘average daily attendance’ means—

“(i) the aggregate number of days of attendance of all students during a school year; divided by

“(ii) the number of days school is in session during such school year.

“(B) The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership or such other data.

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1 “(C) If the local educational agency in
2 which a child resides makes a tuition or other
3 payment for the free public education of the
4 child in a school located in another school dis-
5 trict, the Secretary shall, for purposes of this
6 Act—

7 “(i) consider the child to be in attend-
8 ance at a school of the agency making such
9 payment; and

10 “(ii) not consider the child to be in at-
11 tendance at a school of the agency receiv-
12 ing such payment.

13 “(D) If a local educational agency makes a
14 tuition payment to a private school or to a pub-
15 lic school of another local educational agency
16 for a child with disabilities, as defined in sec-
17 tion 602(3) of the Individuals with Disabilities
18 Education Act, the Secretary shall, for the pur-
19 poses of this Act, consider such child to be in
20 attendance at a school of the agency making
21 such payment.

22 “(2) AVERAGE PER-PUPIL EXPENDITURE.—The
23 term ‘average per-pupil expenditure’ means, in the
24 case of a State or of the United States—

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1 “(A) without regard to the source of
2 funds—

3 “(i) the aggregate current expendi-
4 tures, during the third fiscal year pre-
5 ceding the fiscal year for which the deter-
6 mination is made (or, if satisfactory data
7 for that year are not available, during the
8 most recent preceding fiscal year for which
9 satisfactory data are available) of all local
10 educational agencies in the State or, in the
11 case of the United States for all States
12 (which, for the purpose of this paragraph,
13 means the 50 States and the District of
14 Columbia); plus

15 “(ii) any direct current expenditures
16 by the State for the operation of such
17 agencies; divided by

18 “(B) the aggregate number of children in
19 average daily attendance to whom such agencies
20 provided free public education during such pre-
21 ceding year.

22 “(3) CHILD.—The term ‘child’ means any per-
23 son within the age limits for which the State pro-
24 vides free public education.

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1 “(4) CHILD WITH DISABILITY.—The term ‘child
2 with a disability’ means a child—

3 “(A) with mental retardation, hearing im-
4 pairments, hearing impairments (including
5 deafness), speech or language impairments, vis-
6 ual impairments (including blindness), serious
7 emotional disturbance (hereinafter referred to
8 as ‘emotional disturbance’), orthopedic impair-
9 ments, autism, traumatic brain injury, other
10 health impairments, or specific learning disabil-
11 ities; and

12 “(B) who, by reason thereof, needs special
13 education and related services.

14 “(5) COMMUNITY-BASED ORGANIZATION.—The
15 term ‘community-based organization’ means a public
16 or private nonprofit organization of demonstrated ef-
17 fectiveness that—

18 “(A) is representative of a community or
19 significant segments of a community; and

20 “(B) provides educational or related serv-
21 ices to individuals in the community.

22 “(6) CONSOLIDATED LOCAL APPLICATION.—
23 The term ‘consolidated local application’ means an
24 application submitted by a local educational agency
25 pursuant to section 14302.

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1 “(7) CONSOLIDATED LOCAL PLAN.—The term
2 ‘consolidated local plan’ means a plan submitted by
3 a local educational agency pursuant to section
4 14302.

5 “(8) CONSOLIDATED STATE APPLICATION.—
6 The term ‘consolidated State application’ means an
7 application submitted by a State educational agency
8 pursuant to section 14302.

9 “(9) CONSOLIDATED STATE PLAN.—The term
10 ‘consolidated State plan’ means a plan submitted by
11 a State educational agency pursuant to section
12 14302.

13 “(10) COUNTY.—The term ‘county’ means one
14 of the divisions of a State used by the Secretary of
15 Commerce in compiling and reporting data regard-
16 ing counties.

17 “(11) COVERED PROGRAM.—The term ‘covered
18 program’ means each of the programs authorized
19 by—

20 “(A) part A of title I;

21 “(B) part B of title I;

22 “(C) part C of title I;

23 “(D) part D of title I;

24 “(E) title II (other than National activi-
25 ties);

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1 “(F) subpart 2 of part A of title III;

2 “(G) part A title IV (other than section
3 4115(b));

4 “(H) title VI;

5 “(I) comprehensive school reform programs
6 as authorized under section 1502 and described
7 on pages 96–99 of the Joint Explanatory State-
8 ment of the Committee of Conference included
9 in House Report 105–390 (Conference Report
10 on the Departments of Labor, Health and
11 Human Services, and Education, and Related
12 Agencies Appropriations Act, 1998);

13 “(K) part A of title VII;

14 “(L) part C of title VII;

15 “(M) part J of title X; and

16 “(N) title XII.

17 “(12) CURRENT EXPENDITURES.—The term
18 ‘current expenditures’ means expenditures for free
19 public education—

20 “(A) including expenditures for adminis-
21 tration, instruction, attendance, pupil transpor-
22 tation services, operation and maintenance of
23 plant, fixed charges, and net expenditures to
24 cover deficits for food services and student body
25 activities; but

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1 “(B) not including expenditures for com-
2 munity services, capital outlay, and debt serv-
3 ice, or any expenditures made from funds re-
4 ceived under title I and title VI.

5 “(13) DEPARTMENT.—The term ‘Department’
6 means the Department of Education.

7 “(14) EDUCATIONAL SERVICE AGENCY.—The
8 term ‘educational service agency’ means a regional
9 public multiservice agency authorized by State stat-
10 ute to develop, manage, and provide services or pro-
11 grams to local educational agencies.

12 “(15) ELEMENTARY SCHOOL.—The term ‘ele-
13 mentary school’ means a nonprofit institutional day
14 or residential school, including a public elementary
15 charter school, that provides elementary education,
16 as determined under State law.

17 “(16) FAMILY LITERACY SERVICES.—The term
18 ‘family literacy services’ means services provided to
19 participants on a voluntary basis that are of suffi-
20 cient intensity in terms of hours, and of sufficient
21 duration, to make sustainable changes in a family,
22 and that integrate all of the following activities:

23 “(A) Interactive literacy activities between
24 parents and their children.

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1 “(B) Training for parents regarding how
2 to be the primary teacher for their children and
3 full partners in the education of their children.

4 “(C) Parent literacy training that leads to
5 economic self-sufficiency.

6 “(D) An age-appropriate education to pre-
7 pare children for success in school and life ex-
8 periences.

9 “(17) FREE PUBLIC EDUCATION.—The term
10 ‘free public education’ means education that is
11 provided—

12 “(A) at public expense, under public super-
13 vision and direction, and without tuition charge;
14 and

15 “(B) as elementary or secondary school
16 education as determined under applicable State
17 law, except that such term does not include any
18 education provided beyond grade 12.

19 “(18) GIFTED AND TALENTED.—The term
20 ‘gifted and talented’, when used with respect to stu-
21 dents, children or youth, means students, children or
22 youth who give evidence of high performance capa-
23 bility in areas such as intellectual, creative, artistic,
24 or leadership capacity, or in specific academic fields,
25 and who require services or activities not ordinarily

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1 provided by the school in order to fully develop such
2 capabilities.

3 “(19) INSTITUTION OF HIGHER EDUCATION.—
4 The term ‘institution of higher education’ has the
5 meaning given that term in section 101 of the High-
6 er Education Act of 1965.

7 “(20) LOCAL EDUCATIONAL AGENCY.—(A) The
8 term ‘local educational agency’ means a public board
9 of education or other public authority legally con-
10 stituted within a State for either administrative con-
11 trol or direction of, or to perform a service function
12 for, public elementary or secondary schools in a city,
13 county, township, school district, or other political
14 subdivision of a State, or for such combination of
15 school districts or counties as are recognized in a
16 State as an administrative agency for its public ele-
17 mentary or secondary schools.

18 “(B) The term includes any other public insti-
19 tution or agency having administrative control and
20 direction of a public elementary or secondary school.

21 “(C) The term includes an elementary or sec-
22 ondary school funded by the Bureau of Indian Af-
23 fairs but only to the extent that such inclusion
24 makes such school eligible for programs for which
25 specific eligibility is not provided to such school in

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1 another provision of law and such school does not
2 have a student population that is smaller than the
3 student population of the local educational agency
4 receiving assistance under this Act with the smallest
5 student population, except that such school shall not
6 be subject to the jurisdiction of any State edu-
7 cational agency other than the Bureau of Indian Af-
8 fairs.

9 “(D) The term includes educational service
10 agencies and consortia of such agencies.

11 “(21) MENTORING.—The term ‘mentoring’
12 means a program in which an adult works with a
13 child or youth on a 1-to-1 basis, establishing a sup-
14 portive relationship, providing academic assistance,
15 and introducing the child or youth to new experi-
16 ences that enhance the child or youth’s ability to
17 excel in school and become a responsible citizen.

18 “(22) OTHER STAFF.—The term ‘other staff’
19 means pupil services personnel, librarians, career
20 guidance and counseling personnel, education aides,
21 and other instructional and administrative per-
22 sonnel.

23 “(23) OUTLYING AREA.—The term ‘outlying
24 area’ means the United States Virgin Islands,

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1 Guam, American Samoa, and the Commonwealth of
2 the Northern Mariana Islands.

3 “(24) PARENT.—The term ‘parent’ includes a
4 legal guardian or other person standing in loco
5 parentis.

6 “(25) PUBLIC TELECOMMUNICATION ENTITY.—
7 The term ‘public telecommunication entity’ has the
8 same meaning given to such term in section 397(12)
9 of the Communications Act of 1934.

10 “(26) PUPIL SERVICES PERSONNEL; PUPIL
11 SERVICES.—(A) The term ‘pupil services personnel’
12 means school counselors, school social workers,
13 school psychologists, and other qualified professional
14 personnel involved in providing assessment, diag-
15 nosis, counseling, educational, therapeutic, and other
16 necessary services (including related services as such
17 term is defined in section 602(22) of the Individuals
18 with Disabilities Education Act) as part of a com-
19 prehensive program to meet student needs.

20 “(B) The term ‘pupil services’ means the serv-
21 ices provided by pupil services personnel.

22 “(27) SCIENTIFICALLY BASED RESEARCH.—
23 The term ‘scientifically based research’—

24 “(A) means the application of rigorous,
25 systematic, and objective procedures to obtain

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1 valid knowledge relevant to education activities
2 and programs; and

3 “(B) shall include research that—

4 “(i) employs systematic, empirical
5 methods that draw on observation or ex-
6 periment;

7 “(ii) involves rigorous data analyses
8 that are adequate to test the stated
9 hypotheses and justify the general conclu-
10 sions drawn;

11 “(iii) relies on measurements or obser-
12 vational methods that provide valid data
13 across evaluators and observers and across
14 multiple measurements and observations;
15 and

16 “(iv) has been accepted by a peer-re-
17 viewed journal or approved by a panel of
18 independent experts through a comparably
19 rigorous, objective, and scientific review.

20 “(28) SECONDARY SCHOOL.—The term ‘sec-
21 ondary school’ means a nonprofit institutional day or
22 residential school, including a public secondary char-
23 ter school, that provides secondary education, as de-
24 termined under State law, except that such term
25 does not include any education beyond grade 12.

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1 “(29) SECRETARY.—The term ‘Secretary’
2 means the Secretary of Education.

3 “(30) STATE.—The term ‘State’ means each of
4 the 50 States, the District of Columbia, the Com-
5 monwealth of Puerto Rico, and each of the outlying
6 areas.

7 “(31) STATE EDUCATIONAL AGENCY.—The
8 term ‘State educational agency’ means the agency
9 primarily responsible for the State supervision of
10 public elementary and secondary schools.

11 “(32) TECHNOLOGY.—The term ‘technology’
12 means the latest state-of-the-art technology products
13 and services.

14 **“SEC. 14102. APPLICABILITY OF THIS TITLE.**

15 “Parts B, C, D, E, and F of this title do not apply
16 to title VIII of this Act.

17 **“SEC. 14103. APPLICABILITY TO BUREAU OF INDIAN AF-
18 FAIRS OPERATED SCHOOLS.**

19 “For purposes of any competitive program under this
20 Act, a consortia of schools operated by the Bureau of In-
21 dian Affairs, a school operated under a contract or grant
22 with the Bureau of Indian Affairs in consortia with an-
23 other contract or grant school or tribal or community or-
24 ganization, or a Bureau of Indian Affairs school in con-
25 sortia with an institution of higher education, a contract

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1 or grant school and tribal or community organization shall
2 be given the same consideration as a local educational
3 agency.

4 **“PART B—FLEXIBILITY IN THE USE OF**
5 **ADMINISTRATIVE AND OTHER FUNDS**

6 **“SEC. 14201. CONSOLIDATION OF STATE ADMINISTRATIVE**
7 **FUNDS FOR ELEMENTARY AND SECONDARY**
8 **EDUCATION PROGRAMS.**

9 “(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—

10 “(1) IN GENERAL.—A State educational agency
11 may consolidate the amounts specifically made avail-
12 able to such agency for State administration under
13 one or more of the programs under paragraph (2)
14 if such State educational agency can demonstrate
15 that the majority of such agency’s resources are de-
16 rived from non-Federal sources.

17 “(2) APPLICABILITY.—This section applies to
18 any program under this Act under which funds are
19 authorized to be used for administration, and such
20 other programs as the Secretary may designate.

21 “(b) USE OF FUNDS.—

22 “(1) IN GENERAL.—A State educational agency
23 shall use the amount available under this section for
24 the administration of the programs included in the
25 consolidation under subsection (a).

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1 “(2) ADDITIONAL USES.—A State educational
2 agency may also use funds available under this sec-
3 tion for administrative activities designed to enhance
4 the effective and coordinated use of funds under pro-
5 grams included in the consolidation under subsection
6 (a), such as—

7 “(A) the coordination of such programs
8 with other Federal and non-Federal programs;

9 “(B) the establishment and operation of
10 peer-review mechanisms under this Act;

11 “(C) the administration of this title;

12 “(D) the dissemination of information re-
13 garding model programs and practices;

14 “(E) technical assistance under any pro-
15 gram under this Act;

16 “(F) State level activities designed to carry
17 out this title;

18 “(G) training personnel engaged in audit
19 and other monitoring activities; and

20 “(H) implementation of the Cooperative
21 Audit Resolution and Oversight Initiative of the
22 Department of Education.

23 “(c) RECORDS.—A State educational agency that
24 consolidates administrative funds under this section shall
25 not be required to keep separate records, by individual

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1 program, to account for costs relating to the administra-
2 tion of programs included in the consolidation under sub-
3 section (a).

4 “(d) REVIEW.—To determine the effectiveness of
5 State administration under this section, the Secretary may
6 periodically review the performance of State educational
7 agencies in using consolidated administrative funds under
8 this section and take such steps as the Secretary finds
9 appropriate to ensure the effectiveness of such administra-
10 tion.

11 “(e) UNUSED ADMINISTRATIVE FUNDS.—If a State
12 educational agency does not use all of the funds available
13 to such agency under this section for administration, such
14 agency may use such funds during the applicable period
15 of availability as funds available under one or more pro-
16 grams included in the consolidation under subsection (a).

17 **“SEC. 14202. SINGLE LOCAL EDUCATIONAL AGENCY**
18 **STATES.**

19 “A State educational agency that also serves as a
20 local educational agency, in such agency’s applications or
21 plans under this Act, shall describe how such agency will
22 eliminate duplication in the conduct of administrative
23 functions.

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1 **“SEC. 14203. CONSOLIDATION OF FUNDS FOR LOCAL AD-**
2 **MINISTRATION.**

3 “(a) GENERAL AUTHORITY.—In accordance with
4 regulations of the Secretary and for any fiscal year, a local
5 educational agency, with the approval of its State edu-
6 cational agency, may consolidate and use for the adminis-
7 tration of one or more programs under this Act (or such
8 other programs as the Secretary shall designate) not more
9 than the percentage, established in each such program, of
10 the total available for the local educational agency under
11 such programs.

12 “(b) STATE PROCEDURES.—Within one-year from
13 the date of enactment of the Education OPTIONS Act,
14 a State educational agency shall, in collaboration with
15 local educational agencies in the State, establish proce-
16 dures for responding to requests from local educational
17 agencies to consolidate administrative funds under sub-
18 section (a) and for establishing limitations on the amount
19 of funds under such programs that may be used for ad-
20 ministration on a consolidated basis.

21 “(c) CONDITIONS.—A local educational agency that
22 consolidates administrative funds under this section for
23 any fiscal year shall not use any other funds under the
24 programs included in the consolidation for administration
25 for that fiscal year.

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1 “(d) USES OF ADMINISTRATIVE FUNDS.—A local
2 educational agency that consolidates administrative funds
3 under this section may use such consolidated funds for
4 the administration of such programs and for uses, at the
5 school district and school levels, comparable to those de-
6 scribed in section 14201(b)(2).

7 “(e) RECORDS.—A local educational agency that con-
8 solidates administrative funds under this section shall not
9 be required to keep separate records, by individual pro-
10 gram, to account for costs relating to the administration
11 of such programs included in the consolidation.

12 **“SEC. 14205. CONSOLIDATED SET-ASIDE FOR DEPARTMENT**
13 **OF THE INTERIOR FUNDS.**

14 “(a) GENERAL AUTHORITY.—

15 “(1) TRANSFER.—The Secretary shall transfer
16 to the Department of the Interior, as a consolidated
17 amount for covered programs, the Indian education
18 programs under part A of title IX of this Act, and
19 the education for homeless children and youth pro-
20 gram under subtitle B of title VII of the Stewart B.
21 McKinney Homeless Assistance Act, the amounts al-
22 lotted to the Department of the Interior under those
23 programs.

24 “(2) AGREEMENT.—(A) The Secretary and the
25 Secretary of the Interior shall enter into an agree-

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1 ment, consistent with the requirements of the pro-
2 grams specified in paragraph (1), for the distribu-
3 tion and use of those program funds under terms
4 that the Secretary determines best meet the pur-
5 poses of those programs.

6 “(B) The agreement shall—

7 “(i) set forth the plans of the Secretary of
8 the Interior for the use of the amount trans-
9 ferred and the performance measures to assess
10 program effectiveness, including measurable
11 goals and objectives; and

12 “(ii) be developed in consultation with In-
13 dian tribes.

14 “(b) ADMINISTRATION.—The Department of the In-
15 terior may use not more than 1.5 percent of the funds
16 consolidated under this section for such department’s
17 costs related to the administration of the funds trans-
18 ferred under this section.

19 **“PART C—COORDINATION OF PROGRAMS; CON-**
20 **SOLIDATED STATE AND LOCAL PLANS AND**
21 **APPLICATIONS**

22 **“SEC. 14301. PURPOSE.**

23 “The purposes of this part are to improve teaching
24 and learning through greater coordination between pro-
25 grams and to provide greater flexibility to State and local

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1 authorities by allowing the consolidation of State and local
2 plans, applications, and reporting.

3 **“SEC. 14302. OPTIONAL CONSOLIDATED STATE PLANS OR**
4 **APPLICATIONS.**

5 “(a) GENERAL AUTHORITY.—

6 “(1) SIMPLIFICATION.—In order to simplify ap-
7 plication requirements and reduce the burden for
8 State educational agencies under this Act, the Sec-
9 retary, in accordance with subsection (b), shall es-
10 tablish procedures and criteria under which a State
11 educational agency may submit a consolidated State
12 plan or a consolidated State application meeting the
13 requirements of this section for—

14 “(A) any programs under this Act in which
15 the State participates; and

16 “(B) such other programs as the Secretary
17 may designate.

18 “(2) CONSOLIDATED APPLICATIONS AND
19 PLANS.—A State educational agency that submits a
20 consolidated State plan or a consolidated State ap-
21 plication under this section shall not be required to
22 submit a separate State plan or application for a
23 program included in the consolidated State plan or
24 application.

25 “(b) COLLABORATION.—

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1 “(1) IN GENERAL.—In establishing criteria and
2 procedures under this section, the Secretary shall
3 collaborate with State educational agencies and, as
4 appropriate, with other State agencies, local edu-
5 cational agencies, public and private nonprofit agen-
6 cies, organizations, and institutions, private schools,
7 and representatives of parents, students, and teach-
8 ers.

9 “(2) CONTENTS.—Through the collaborative
10 process described in subsection (b)(1) of this section,
11 the Secretary shall establish, for each program
12 under the Act to which this section applies, the de-
13 scriptions, information, assurances, and other mate-
14 rial required to be included in a consolidated State
15 plan or consolidated State application.

16 “(3) NECESSARY MATERIALS.—The Secretary
17 shall require only descriptions, information, assur-
18 ances, and other materials that are absolutely nec-
19 essary for the consideration of the consolidated State
20 plan or consolidated State application.

21 **“SEC. 14303. CONSOLIDATED REPORTING.**

22 “In order to simplify reporting requirements and re-
23 duce reporting burdens, the Secretary shall establish pro-
24 cedures and criteria under which a State educational agen-
25 cy may submit a consolidated State annual report. Such

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1 report shall contain information about the programs in-
2 cluded in the report, including the State's performance
3 under those programs, and other matters as the Secretary
4 determines, such as monitoring activities. Such a report
5 shall take the place of separate individual annual reports
6 for the programs subject to it.

7 **“SEC. 14304. GENERAL APPLICABILITY OF STATE EDU-**
8 **CATIONAL AGENCY ASSURANCES.**

9 “(a) ASSURANCES.—A State educational agency that
10 submits a consolidated State plan or consolidated State
11 application under this Act, whether separately or under
12 section 14302, shall have on file with the Secretary a sin-
13 gle set of assurances, applicable to each program for which
14 such plan or application is submitted, that provides that—

15 “(1) each such program will be administered in
16 accordance with all applicable statutes, regulations,
17 program plans, and applications;

18 “(2)(A) the control of funds provided under
19 each such program and title to property acquired
20 with program funds will be in a public agency, in a
21 nonprofit private agency, institution, or organiza-
22 tion, or in an Indian tribe if the law authorizing the
23 program provides for assistance to such entities; and

24 “(B) the public agency, nonprofit private agen-
25 cy, institution, or organization, or Indian tribe will

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1 administer such funds and property to the extent re-
2 quired by the authorizing law;

3 “(3) the State will adopt and use proper meth-
4 ods of administering each such program, including—

5 “(A) the enforcement of any obligations
6 imposed by law on agencies, institutions, orga-
7 nizations, and other recipients responsible for
8 carrying out each program;

9 “(B) the correction of deficiencies in pro-
10 gram operations that are identified through au-
11 dits, monitoring, or evaluation; and

12 “(C) the adoption of written procedures for
13 the receipt and resolution of complaints alleging
14 violations of law in the administration of such
15 programs;

16 “(4) the State will cooperate in carrying out
17 any evaluation of each such program conducted by
18 or for the Secretary or other Federal officials;

19 “(5) the State will use such fiscal control and
20 fund accounting procedures as will ensure proper
21 disbursement of, and accounting for, Federal funds
22 paid to the State under each such program;

23 “(6) the State will—

24 “(A) make reports to the Secretary as may
25 be necessary to enable the Secretary to perform

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1 the Secretary's duties under each such pro-
2 gram; and

3 “(B) maintain such records, provide such
4 information to the Secretary, and afford access
5 to the records as the Secretary may find nec-
6 essary to carry out the Secretary's duties; and

7 “(7) before the plan or application was sub-
8 mitted to the Secretary, the State has afforded a
9 reasonable opportunity for public comment on the
10 plan or application and has considered such com-
11 ment.

12 “(b) GEPA PROVISION.—Section 441 of the General
13 Education Provisions Act shall not apply to programs
14 under this Act.

15 **“SEC. 14305. CONSOLIDATED LOCAL PLANS OR APPLICA-**
16 **TIONS.**

17 “(a) GENERAL AUTHORITY.—A local educational
18 agency receiving funds under more than one program
19 under this Act may submit plans or applications to the
20 State educational agency under such programs on a con-
21 solidated basis.

22 “(b) REQUIRED CONSOLIDATED PLANS OR APPLICA-
23 TIONS.—A State educational agency that has an approved
24 consolidated State plan or application under section 14302
25 may require local educational agencies in the State receiv-

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1 ing funds under more than one program included in the
2 consolidated State plan or consolidated State application
3 to submit consolidated local plans or applications under
4 such programs, but may not require such agencies to sub-
5 mit separate plans.

6 “(c) COLLABORATION.—A State educational agency
7 shall collaborate with local educational agencies in the
8 State in establishing procedures for the submission of the
9 consolidated State plans or consolidated State applications
10 under this section.

11 “(d) NECESSARY MATERIALS.—The State edu-
12 cational agency shall require only descriptions, informa-
13 tion, assurances, and other material that are absolutely
14 necessary for the consideration of the local educational
15 agency plan or application.

16 **“SEC. 14306. OTHER GENERAL ASSURANCES.**

17 “(a) ASSURANCES.—Any applicant other than a
18 State educational agency that submits a plan or applica-
19 tion under this Act, shall have on file with the State edu-
20 cational agency a single set of assurances, applicable to
21 each program for which a plan or application is submitted,
22 that provides that—

23 “(1) each such program will be administered in
24 accordance with all applicable statutes, regulations,
25 program plans, and applications;

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1 “(2)(A) the control of funds provided under
2 each such program and title to property acquired
3 with program funds will be in a public agency or in
4 a nonprofit private agency, institution, organization,
5 or Indian tribe, if the law authorizing the program
6 provides for assistance to such entities; and

7 “(B) the public agency, nonprofit private
8 agency, institution, or organization, or Indian
9 tribe will administer such funds and property to
10 the extent required by the authorizing statutes;

11 “(3) the applicant will adopt and use proper
12 methods of administering each such program,
13 including—

14 “(A) the enforcement of any obligations
15 imposed by law on agencies, institutions, orga-
16 nizations, and other recipients responsible for
17 carrying out each program; and

18 “(B) the correction of deficiencies in pro-
19 gram operations that are identified through au-
20 dits, monitoring, or evaluation;

21 “(4) the applicant will cooperate in carrying out
22 any evaluation of each such program conducted by
23 or for the State educational agency, the Secretary or
24 other Federal officials;

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1 “(5) the applicant will use such fiscal control
2 and fund accounting procedures as will ensure prop-
3 er disbursement of, and accounting for, Federal
4 funds paid to such applicant under each such pro-
5 gram;

6 “(6) the applicant will—

7 “(A) make reports to the State educational
8 agency and the Secretary as may be necessary
9 to enable such agency and the Secretary to per-
10 form their duties under each such program; and

11 “(B) maintain such records, provide such
12 information, and afford access to the records as
13 the State educational agency or the Secretary
14 may find necessary to carry out the State edu-
15 cational agency’s or the Secretary’s duties; and

16 “(7) before the application was submitted, the
17 applicant afforded a reasonable opportunity for pub-
18 lic comment on the application and has considered
19 such comment.

20 “(b) GEPA PROVISION.—Section 442 of the General
21 Education Provisions Act does not apply to programs
22 under this Act.

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1 **“PART D—WAIVERS**2 **“SEC. 14401. WAIVERS OF STATUTORY AND REGULATORY**
3 **REQUIREMENTS.**

4 “(a) IN GENERAL.—Except as provided in subsection
5 (c), the Secretary may waive any statutory or regulatory
6 requirement of this Act or the Carl D. Perkins Vocational
7 and Technical Education Act of 1998 for a State edu-
8 cational agency, local educational agency, Indian tribe, or
9 school through a local educational agency, that—

10 “(1) receives funds under a program authorized
11 by this Act; and

12 “(2) requests a waiver under subsection (b).

13 “(b) REQUEST FOR WAIVER.—

14 “(1) IN GENERAL.—A State educational agen-
15 cy, local educational agency, or Indian tribe which
16 desires a waiver shall submit a waiver application to
17 the Secretary that—

18 “(A) indicates each Federal program af-
19 fected and each statutory or regulatory require-
20 ment requested to be waived;

21 “(B) describes the purpose and overall ex-
22 pected results of waiving each such require-
23 ment;

24 “(C) describes, for each school year, spe-
25 cific, measurable, educational goals for the
26 State educational agency and for each local

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1 educational agency, Indian tribe, or school that
2 would be affected by the wavier;

3 “(D) explains why the waiver will assist
4 the State educational agency and each affected
5 local educational agency, Indian tribe, or school
6 in reaching such goals.

7 “(2) ADDITIONAL INFORMATION.—Such
8 requests—

9 “(A) may provide for waivers of require-
10 ments applicable to State educational agencies,
11 local educational agencies, Indian tribes, and
12 schools; and

13 “(B) shall be developed and submitted—

14 “(i)(I) by local educational agencies
15 (on behalf of such agencies and schools) to
16 State educational agencies; and

17 “(II) by State educational agencies
18 (on behalf of, and based upon the requests
19 of, local educational agencies) to the Sec-
20 retary; or

21 “(ii) by Indian tribes (on behalf of
22 schools operated by such tribes) to the Sec-
23 retary.

24 “(3) GENERAL REQUIREMENTS.—

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1 “(A) In the case of a waiver request sub-
2 mitted by a State educational agency acting in
3 its own behalf, the State educational agency
4 shall—

5 “(i) provide all interested local edu-
6 cational agencies in the State with notice
7 and a reasonable opportunity to comment
8 on the request;

9 “(ii) submit the comments to the Sec-
10 retary; and

11 “(iii) provide notice and information
12 to the public regarding the waiver request
13 in the manner that the applying agency
14 customarily provides similar notices and
15 information to the public.

16 “(B) In the case of a waiver request sub-
17 mitted by a local educational agency that re-
18 ceives funds under this Act—

19 “(i) such request shall be reviewed by
20 the State educational agency and be ac-
21 companied by the comments, if any, of
22 such State educational agency; and

23 “(ii) notice and information regarding
24 the waiver request shall be provided to the
25 public by the agency requesting the waiver

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1 in the manner that such agency custom-
2 arily provides similar notices and informa-
3 tion to the public.

4 “(c) RESTRICTIONS.—The Secretary shall not waive
5 under this section any statutory or regulatory require-
6 ments relating to—

7 “(1) the allocation or distribution of funds to
8 States, local educational agencies, or other recipients
9 of funds under this Act;

10 “(2) maintenance of effort;

11 “(3) comparability of services;

12 “(4) use of Federal funds to supplement, not
13 supplant, non-Federal funds;

14 “(5) equitable participation of private school
15 students and teachers;

16 “(6) parental participation and involvement;

17 “(7) applicable civil rights requirements;

18 “(8) the requirement for a charter school under
19 part C of title X; or

20 “(9) the prohibitions regarding—

21 “(A) State aid in section 14502;

22 “(B) use of funds for religious worship or
23 instruction in section 14507; and

24 “(C) activities in section 14513.

25 “(d) DURATION AND EXTENSION OF WAIVER.—

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1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), the duration of a waiver approved by the
3 Secretary under this section may be for a period not
4 to exceed 5 years.

5 “(2) EXTENSION.—The Secretary may extend
6 the period described in paragraph (1) if the Sec-
7 retary determines that—

8 “(A) the waiver has been effective in ena-
9 bling the State or affected recipients to carry
10 out the activities for which the waiver was re-
11 quested and the waiver has contributed to im-
12 proved student performance; and

13 “(B) such extension is in the public inter-
14 est.

15 “(e) REPORTS.—

16 “(1) LOCAL WAIVER.—A local educational agen-
17 cy that receives a waiver under this section shall at
18 the end of the second year for which a waiver is re-
19 ceived under this section, and each subsequent year,
20 submit a report to the State educational agency
21 that—

22 “(A) describes the uses of such waiver by
23 such agency or by schools;

24 “(B) describes how schools continued to
25 provide assistance to the same populations

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1 served by the programs for which waivers are
2 requested; and

3 “(A) evaluates the progress of such agency
4 and of schools in improving the quality of in-
5 struction or the academic performance of stu-
6 dents.

7 “(2) STATE WAIVER.—A State educational
8 agency that receives reports required under para-
9 graph (1) shall annually submit a report to the Sec-
10 retary that is based on such reports and contains
11 such information as the Secretary may require.

12 “(3) INDIAN TRIBE WAIVER.—An Indian tribe
13 that receives a waiver under this section shall annu-
14 ally submit a report to the Secretary that—

15 “(A) describes the uses of such waiver by
16 schools operated by such tribe; and

17 “(B) evaluates the progress of such schools
18 in improving the quality of instruction or the
19 academic performance of students.

20 “(4) REPORT TO CONGRESS.—Beginning in fis-
21 cal year 2001 and each subsequent year, the Sec-
22 retary shall submit to the Committee on Education
23 and the Workforce of the House of Representatives
24 and the Committee on Health, Education, Labor
25 and Pensions of the Senate a report—

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1 “(A) summarizing the uses of waivers by
2 State educational agencies, local educational
3 agencies, Indian tribes, and schools; and

4 “(B) describing whether such waivers—

5 “(i) increased the quality of instruc-
6 tion to students; or

7 “(ii) improved the academic perform-
8 ance of students.

9 “(f) TERMINATION OF WAIVERS.—The Secretary
10 shall terminate a waiver under this section if the Secretary
11 determines, after notice and an opportunity for a hearing,
12 that the performance of the State or other recipient af-
13 fected by the waiver has been inadequate to justify a con-
14 tinuation of the waiver or if the waiver is no longer nec-
15 essary to achieve its original purposes.

16 “(g) PUBLICATION.—A notice of the Secretary’s deci-
17 sion to grant each waiver under subsection (a) shall be
18 published in the Federal Register and the Secretary shall
19 provide for the dissemination of such notice to State edu-
20 cational agencies, interested parties, including educators,
21 parents, students, advocacy and civil rights organizations,
22 and the public.

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1 **“PART E—UNIFORM PROVISIONS**2 **“SEC. 14501. MAINTENANCE OF EFFORT.**

3 “(a) IN GENERAL.—A local educational agency may
4 receive funds under a covered program for any fiscal year
5 only if the State educational agency finds that either the
6 combined fiscal effort per student or the aggregate ex-
7 penditures of such agency and the State with respect to
8 the provision of free public education by such agency for
9 the preceding fiscal year was not less than 90 percent of
10 such combined fiscal effort or aggregate expenditures for
11 the second preceding fiscal year.

12 “(b) REDUCTION IN CASE OF FAILURE TO MEET.—

13 “(1) IN GENERAL.—The State educational
14 agency shall reduce the amount of the allocation of
15 funds under a covered program in any fiscal year in
16 the exact proportion to which a local educational
17 agency fails to meet the requirement of subsection
18 (a) of this section by falling below 90 percent of
19 both the combined fiscal effort per student and ag-
20 gregate expenditures (using the measure most favor-
21 able to such local agency).

22 “(2) SPECIAL RULE.—No such lesser amount
23 shall be used for computing the effort required
24 under subsection (a) of this section for subsequent
25 years.

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1 “(c) WAIVER.—The Secretary may waive the require-
2 ments of this section if the Secretary determines that such
3 a waiver would be equitable due to—

4 “(1) exceptional or uncontrollable circumstances
5 such as a natural disaster; or

6 “(2) a precipitous decline in the financial re-
7 sources of the local educational agency.

8 **“SEC. 14502. PROHIBITION REGARDING STATE AID.**

9 “A State shall not take into consideration payments
10 under this Act (other than under title VIII) in determining
11 the eligibility of any local educational agency in such State
12 for State aid, or the amount of State aid, with respect
13 to free public education of children.

14 **“SEC. 14503. PARTICIPATION BY PRIVATE SCHOOL CHIL-**
15 **DREN AND TEACHERS.**

16 “(a) PRIVATE SCHOOL PARTICIPATION.—

17 “(1) IN GENERAL.—Except as otherwise pro-
18 vided in this Act, to the extent consistent with the
19 number of eligible children in areas served by a
20 State educational agency, local educational agency,
21 educational service agency, consortium of such agen-
22 cies, or another entity receiving financial assistance
23 under a program specified in subsection (b), who are
24 enrolled in private elementary and secondary schools
25 in areas served by such agency, consortium or entity,

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1 such agency, consortium or entity shall, after timely
2 and meaningful consultation with appropriate pri-
3 vate school officials, provide such children and their
4 teachers or other educational personnel, on an equi-
5 table basis, special educational services or other ben-
6 efits that address their needs under such program.

7 “(2) SECULAR, NEUTRAL, AND NONIDEOLOG-
8 ICAL SERVICES OR BENEFITS.—Educational services
9 or other benefits, including materials and equipment,
10 provided under this section, shall be secular, neutral,
11 and nonideological.

12 “(3) SPECIAL RULE.—Educational services and
13 other benefits provided under this section for such
14 private school children, teachers, and other edu-
15 cational personnel shall be equitable in comparison
16 to services and other benefits for public school chil-
17 dren, teachers, and other educational personnel par-
18 ticipating in such program and shall be provided in
19 a timely manner.

20 “(4) EXPENDITURES.—Expenditures for edu-
21 cational services and other benefits provided under
22 this section to eligible private school children, their
23 teachers, and other educational personnel serving
24 such children shall be equal, taking into account the
25 number and educational needs of the children to be

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1 served, to the expenditures for participating public
2 school children.

3 “(5) PROVISION OF SERVICES.—Such agency,
4 consortium or entity described in subsection (a)(1)
5 of this section may provide such services directly or
6 through contracts with public and private agencies,
7 organizations, and institutions.

8 “(b) APPLICABILITY.—

9 “(1) IN GENERAL.—This section applies to pro-
10 grams under—

11 “(A) part C of title I;

12 “(B) title II;

13 “(C) title III;

14 “(D) title IV; and

15 “(E) title VII.

16 “(2) DEFINITION.—For the purposes of this
17 section, the term ‘eligible children’ means children
18 eligible for services under a program described in
19 paragraph (1).

20 “(c) CONSULTATION.—

21 “(1) IN GENERAL.—To ensure timely and
22 meaningful consultation, a State educational agency,
23 local educational agency, educational service agency,
24 consortium of such agencies or entity shall consult
25 with appropriate private school officials during the

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1 design and development of the programs under this
2 Act, on issues such as—

3 “(A) how the children’s needs will be iden-
4 tified;

5 “(B) what services will be offered;

6 “(C) how, where, and by whom the services
7 will be provided;

8 “(D) how the services will be assessed and
9 how the results of the assessment will be used
10 to improve such services;

11 “(E) the size and scope of the equitable
12 services to be provided to the eligible private
13 school children, teachers, and other educational
14 personnel and the amount of funds available for
15 such services; and

16 “(F) how and when the agency, consor-
17 tium, or entity will make decisions about the
18 delivery of services, including a thorough con-
19 sideration and analysis of the views of the pri-
20 vate school officials on the provision of contract
21 services through potential third party providers.

22 “(2) DISAGREEMENT.—If the agency, consor-
23 tium or entity disagrees with the views of the private
24 school officials on the provision of services through
25 a contract, the agency, consortium, or entity shall

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1 provide in writing to such private school officials an
2 analysis of the reasons why the local educational
3 agency has chosen not to use a contractor.

4 “(3) TIMING.—Such consultation shall occur
5 before the agency, consortium, or entity makes any
6 decision that affects the opportunities of eligible pri-
7 vate school children, teachers, and other educational
8 personnel to participate in programs under this Act,
9 and shall continue throughout the implementation
10 and assessment of activities under this section.

11 “(4) DISCUSSION REQUIRED.—Such consulta-
12 tion shall include a discussion of service delivery
13 mechanisms that the agency, consortium, or entity
14 could use to provide equitable services to eligible pri-
15 vate school children, teachers, administrators, and
16 other staff.

17 “(d) PUBLIC CONTROL OF FUNDS.—

18 “(1) IN GENERAL.—The control of funds used
19 to provide services under this section, and title to
20 materials, equipment, and property purchased with
21 such funds, shall be in a public agency for the uses
22 and purposes provided in this Act, and a public
23 agency shall administer such funds and property.

24 “(2) PROVISION OF SERVICES.—

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1 “(A) The provision of services under this
2 section shall be provided—

3 “(i) by employees of a public agency;
4 or

5 “(ii) through contract by such public
6 agency with an individual, association,
7 agency, organization, or other entity.

8 “(B) In the provision of such services, such
9 employee, person, association, agency, organiza-
10 tion or other entity shall be independent of such
11 private school and of any religious organization,
12 and such employment or contract shall be under
13 the control and supervision of such public agen-
14 cy.

15 “(C) Funds used to provide services under
16 this section shall not be commingled with non-
17 Federal funds.

18 **“SEC. 14504. STANDARDS FOR BY-PASS.**

19 “If, by reason of any provision of law, a State edu-
20 cational agency, local educational agency, educational
21 service agency, consortium, or other entity of such agen-
22 cies, is prohibited from providing for the participation in
23 programs of children enrolled in, or teachers or other edu-
24 cational personnel from, private elementary and secondary
25 schools, on an equitable basis, or if the Secretary deter-

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1 mines that such agency consortium or entity has substan-
2 tially failed or is unwilling to provide for such participa-
3 tion, as required by section 14503, the Secretary shall—

4 “(1) waive the requirements of that section for
5 such agency, consortium, or entity;

6 “(2) arrange for the provision of equitable serv-
7 ices to such children, teachers, or other educational
8 personnel through arrangements that shall be sub-
9 ject to the requirements of this section and of sec-
10 tions 14503, 14505, and 14506; and

11 “(3) in making the determination, consider one
12 or more factors, including the quality, size, scope, lo-
13 cation of the program and the opportunity of private
14 school children, teachers, and other educational per-
15 sonnel to participate.

16 **“SEC. 14505. COMPLAINT PROCESS FOR PARTICIPATION OF**
17 **PRIVATE SCHOOL CHILDREN.**

18 “(a) PROCEDURES FOR COMPLAINTS.—The Sec-
19 retary shall develop and implement written procedures for
20 receiving, investigating, and resolving complaints from
21 parents, teachers, or other individuals and organizations
22 concerning violations of section 14503 by a State edu-
23 cational agency, local educational agency, educational
24 service agency, consortium of such agencies or entity.
25 Such individual or organization shall submit such com-

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1 plaint to the State educational agency for a written resolu-
2 tion by the State educational agency within a reasonable
3 period of time.

4 “(b) APPEALS TO SECRETARY.—Such resolution may
5 be appealed by an interested party to the Secretary not
6 later than 30 days after the State educational agency re-
7 solves the complaint or fails to resolve the complaint with-
8 in a reasonable period of time. Such appeal shall be ac-
9 companied by a copy of the State educational agency’s res-
10 olution, and a complete statement of the reasons sup-
11 porting the appeal. The Secretary shall investigate and re-
12 solve each such appeal not later than 120 days after re-
13 ceipt of the appeal.

14 **“SEC. 14506. BY-PASS DETERMINATION PROCESS.**

15 “(a) REVIEW.—

16 “(1) IN GENERAL.—

17 “(A) The Secretary shall not take any final
18 action under section 14504 until the State edu-
19 cational agency, local educational agency, edu-
20 cational service agency, consortium of such
21 agencies or entity affected by such action has
22 had an opportunity, for not less than 45 days
23 after receiving written notice thereof, to submit
24 written objections and to appear before the Sec-

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1 retary to show cause why that action should not
2 be taken.

3 “(B) Pending final resolution of any inves-
4 tigation or complaint that could result in a de-
5 termination under this section, the Secretary
6 may withhold from the allocation of the affected
7 State or local educational agency the amount
8 estimated by the Secretary to be necessary to
9 pay the cost of those services.

10 “(2) PETITION FOR REVIEW.—

11 “(A) If such affected agency consortium or
12 entity is dissatisfied with the Secretary’s final
13 action after a proceeding under paragraph (1),
14 such agency consortium or entity may, within
15 60 days after notice of such action, file with the
16 United States court of appeals for the circuit in
17 which such State is located a petition for review
18 of that action.

19 “(B) A copy of the petition shall be forth-
20 with transmitted by the clerk of the court to the
21 Secretary.

22 “(C) The Secretary upon receipt of the
23 copy of the petition shall file in the court the
24 record of the proceedings on which the Sec-

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1 retary based this action, as provided in section
2 2112 of title 28, United States Code.

3 “(3) FINDINGS OF FACT.—

4 “(A) The findings of fact by the Secretary,
5 if supported by substantial evidence, shall be
6 conclusive, but the court, for good cause shown,
7 may remand the case to the Secretary to take
8 further evidence and the Secretary may then
9 make new or modified findings of fact and may
10 modify the Secretary’s previous action, and
11 shall file in the court the record of the further
12 proceedings.

13 “(B) Such new or modified findings of fact
14 shall likewise be conclusive if supported by sub-
15 stantial evidence.

16 “(4) JURISDICTION.—

17 “(A) Upon the filing of such petition, the
18 court shall have jurisdiction to affirm the action
19 of the Secretary or to set such action aside, in
20 whole or in part.

21 “(B) The judgment of the court shall be
22 subject to review by the Supreme Court of the
23 United States upon certiorari or certification as
24 provided in section 1254 of title 28, United
25 States Code.

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1 “(b) DETERMINATION.—Any determination by the
2 Secretary under this section shall continue in effect until
3 the Secretary determines, in consultation with such agen-
4 cy, consortium or entity and representatives of the af-
5 fected private school children, teachers, or other edu-
6 cational personnel that there will no longer be any failure
7 or inability on the part of such agency or consortium to
8 meet the applicable requirements of section 14503 or any
9 other provision of this Act.

10 “(c) PAYMENT FROM STATE ALLOTMENT.—When
11 the Secretary arranges for services pursuant to this sec-
12 tion, the Secretary shall, after consultation with the ap-
13 propriate public and private school officials, pay the cost
14 of such services, including the administrative costs of ar-
15 ranging for those services, from the appropriate allocation
16 or allocations under this Act.

17 “(d) PRIOR DETERMINATION.—Any by-pass deter-
18 mination by the Secretary under this Act as in effect on
19 the day preceding the date of enactment of the Education
20 OPTIONS Act shall remain in effect to the extent the Sec-
21 retary determines that such determination is consistent
22 with the purpose of this section.

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1 **“SEC. 14507. PROHIBITION AGAINST FUNDS FOR RELIGIOUS**
2 **WORSHIP OR INSTRUCTION.**

3 “Nothing contained in this Act shall be construed to
4 authorize the making of any payment under this Act for
5 religious worship or instruction.

6 **“SEC. 14508. APPLICABILITY TO HOME SCHOOLS.**

7 “Nothing in this Act shall be construed to affect
8 home schools.

9 **“SEC. 14509. GENERAL PROVISION REGARDING NON-**
10 **RECIPIENT NONPUBLIC SCHOOLS.**

11 “Nothing in this Act or any other Act administered
12 by the Department shall be construed to permit, allow,
13 encourage, or authorize any Federal control over any as-
14 pect of any private, religious, or home school, whether or
15 not a home school is treated as a private school or home
16 school under State law. This section shall not be construed
17 to bar private, religious, or home schools from participa-
18 tion in programs or services under this Act or any other
19 Act administered by the Department.

20 **“SEC. 14510. SCHOOL PRAYER.**

21 “Notwithstanding any provision of law, no funds
22 made available through the Department of Education
23 under this Act, or any other Act, shall be available to any
24 State or local educational agency which has a policy of
25 denying or which effectively prevents participation in, con-
26 stitutionally protected prayer in public schools by individ-

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1 uals on a voluntary basis. Neither the United States nor
2 any State nor any local educational agency shall require
3 any person to participate in prayer or influence the form
4 or content of any constitutionally protected prayer in such
5 public schools.

6 **“SEC. 14511. MEMORIALS AND MEMORIAL SERVICES; RULE**
7 **OF CONSTRUCTION; AND ATTORNEY FEES.**

8 “(a) FINDINGS.—Congress finds the following:

9 “(1) The saying of a prayer, the reading of a
10 scripture, or the performance of religious music, as
11 part of a memorial service that is held on the cam-
12 pus of a public elementary or secondary school in
13 order to honor the memory of any person slain on
14 that campus is not objectionable under this Act.

15 “(2) The design and construction of any memo-
16 rial which includes religious symbols, motifs, or
17 sayings that is placed on the campus of a public ele-
18 mentary or secondary school in order to honor the
19 memory of any person slain on that campus is not
20 objectionable under this Act.

21 “(b) RULE OF CONSTRUCTION.—

22 “(1) PAYMENT.—Nothing contained in this Act
23 shall be construed to authorize the making of any
24 payment under this Act for religious worship, in-

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1 struction, or the construction of any religious memo-
2 rial.

3 “(2) MEMORIAL SERVICE.—This Act shall not
4 be construed to bar—

5 “(A) the saying of a prayer;

6 “(B) the reading of a scripture;

7 “(C) the performance of religious music; or

8 “(D) the design or construction of any me-
9 morial which includes religious symbols, motifs,
10 or sayings;

11 as part of a memorial service held or a memorial
12 placed, as the case may be, on the campus of a pub-
13 lic elementary or secondary school in order to honor
14 the memory of any person slain on that campus.

15 **“SEC. 14512. ATTORNEYS FEES.**

16 “Notwithstanding any other provision of Federal law,
17 a local educational agency or public elementary or sec-
18 ondary school may use not more than 20 percent of its
19 administrative funds from any program under this Act for
20 payment of attorneys fees and related legal services in the
21 defense of any legal action, brought against a local edu-
22 cational agency, public elementary or secondary school, or
23 agent of any of such entities, claiming such agency, school,
24 or agent violated the constitutional prohibition against the

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1 establishment of religion by permitting, facilitating, or
2 accommodating—

3 “(1) a student’s religious expression; or

4 “(2) the design or construction of any memorial
5 which includes religious symbols, motifs, or saying
6 as part of a memorial placed on the campus of a
7 public elementary or secondary school in order to
8 honor the memory of a person slain on that campus.

9 **“SEC. 14513. GENERAL PROHIBITIONS.**

10 “(a) PROHIBITION.—None of the funds authorized
11 under this Act shall be used—

12 “(1) to develop or distribute materials, or oper-
13 ate programs or courses of instruction directed at
14 youth that are designed to promote or encourage,
15 sexual activity, whether homosexual or heterosexual;

16 “(2) to distribute or to aid in the distribution
17 by any organization of legally obscene materials to
18 minors on school grounds;

19 “(3) to provide sex education or HIV preven-
20 tion education in schools unless such instruction is
21 age appropriate and emphasizes the health benefits
22 of abstinence; or

23 “(4) to operate a program of contraceptive dis-
24 tribution in schools.

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1 “(b) LOCAL CONTROL.—Nothing in this section shall
2 be construed to—

3 “(1) authorize an officer or employee of the
4 Federal Government to mandate, direct, review, or
5 control a State, local educational agency, or schools’
6 instructional content, curriculum, and related activi-
7 ties;

8 “(2) limit the application of the General Edu-
9 cation Provisions Act (20 U.S.C.A. 1221 et seq.);

10 “(3) require the distribution of scientifically or
11 medically false or inaccurate materials or to prohibit
12 the distribution of scientifically or medically true or
13 accurate materials; or

14 “(4) create any legally enforceable right.

15 **“SEC. 14514. PROHIBITION ON FEDERAL MANDATES, DIREC-**
16 **TION, AND CONTROL.**

17 “Nothing in this Act shall be construed to authorize
18 an officer or employee of the Federal Government to man-
19 date, direct, or control a State, local educational agency,
20 or school’s curriculum, program of instruction, or alloca-
21 tion of State or local resources, or mandate a State or
22 any subdivision thereof to spend any funds or incur any
23 costs not paid for under this Act.

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1 **“SEC. 14515. RULEMAKING.**

2 “The Secretary shall issue regulations under this Act
3 only to the extent that such regulations are necessary to
4 ensure that there is compliance with the specific require-
5 ments and assurances required by this Act.

6 **“SEC. 14516. REPORT.**

7 “The Secretary shall report to the Congress not later
8 than 180 days after the date of enactment of the Edu-
9 cation OPTIONS Act regarding how the Secretary shall
10 ensure that audits conducted by Department employees of
11 activities assisted under this Act comply with changes to
12 this Act made by the Education OPTIONS Act, particu-
13 larly with respect to permitting children with similar edu-
14 cational needs to be served in the same educational set-
15 tings, where appropriate.

16 **“SEC. 14517. REQUIRED APPROVAL OR CERTIFICATION**
17 **PROHIBITED.**

18 “(a) IN GENERAL.—Notwithstanding any other pro-
19 vision of Federal law, no State shall be required to have
20 content standards or student performance standards ap-
21 proved or certified by the Federal Government, in order
22 to receive assistance under this Act.

23 “(b) CONSTRUCTION.—Nothing in this section shall
24 be construed to affect requirements under title I of this
25 Act.

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1 **“SEC. 14518. PROHIBITION ON ENDORSEMENT OF CUR-**
2 **RICULUM.**

3 “Notwithstanding any other prohibition of Federal
4 law, no funds provided to the Department of Education
5 or to any applicable program may be used by the Depart-
6 ment to endorse, approve, or sanction any curriculum de-
7 signed to be used in an elementary or secondary school.

8 **“PART F—SENSE OF THE CONGRESS**

9 **“SEC. 14614. REDUCING THE READING DEFICIT.**

10 “(a) FINDINGS.—The ability to read the English lan-
11 guage is the cornerstone of academic success. The 1998
12 National Assessment of Educational Progress (NAEP)
13 found that 69 percent of 4th grade students are reading
14 below the proficient level. The National Institute of Child
15 Health and Human Development (NICHD) has conducted
16 extensive scientific research on reading instruction for
17 more than 34 years at a cost of more than two hundred
18 million dollars. Federal research in reading instruction has
19 concluded that phonemic awareness, direct systematic in-
20 struction in sound-spelling correspondences, blending of
21 sound-spellings into words, reading comprehension, and
22 regular exposure to interesting books are essential compo-
23 nents of any balanced reading program.

24 “(b) SENSE OF CONGRESS.—It is the sense of Con-
25 gress that—

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1 “(1) federally funded education programs which
2 are designed to improve reading skills, should use in-
3 structional practices that are grounded in scientif-
4 ically based research as defined in section 14101(26)
5 of this Act;

6 “(2) reducing the reading deficit is one of the
7 most critical tasks before the nation; and

8 “(3) successful learning in all other areas such
9 as science, history, literature, business and voca-
10 tional training or computer science requires the abil-
11 ity to read fluently and with comprehension.

12 **“SEC. 14615. SCIENCE ASSESSMENT.**

13 It is the sense of Congress that State and local as-
14 sessments in science should measure a student’s ability
15 to—

16 (1) understand scientific facts, results, and con-
17 cepts;

18 (2) design and conduct experiments;

19 (3) make arguments based on evidence and
20 data; and

21 (4) communicate scientific information.”.

22 **SEC. 602. REPEALS.**

23 The following provisions are repealed:

24 (1) GOALS.—Parts A and C of title II and title
25 VI of Goals 2000: Educate America Act.

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1 (2) ESEA.—Part G of title X and title XI of
2 the Elementary and Secondary Education Act of
3 1965.

4 **SEC. 603. EFFECTIVE DATE.**

5 This Act and the amendments made by this Act shall
6 take effect on October 1, 2000, or the date of enactment
7 of Education OPTIONS Act, whichever occurs later.